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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO DOMESTIC AFFAIRS; RENAMING THE FAMILY VIOLENCE PROTECTION ACT AS THE PROTECTION AGAINST ABUSE AND VIOLENCE ACT; CLARIFYING DEFINITIONS; SPECIFYING THE STANDARD TO BE IMPLEMENTED FOR CERTAIN ORDERS OF PROTECTION; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 1-4-5.1 NMSA 1978 (being Laws 1993, Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7, as amended) is amended to read:

"1-4-5.1. METHOD OF REGISTRATION--FORM.--

A. A qualified elector may apply for registration using the paper form by mail, in the office of the secretary of state or county clerk or with a registration agent or officer.

B. A person may request certificate of registration

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1 forms from the secretary of state or any county clerk in
2 person, by telephone or by mail for that person or for other
3 persons.

4 C. A qualified elector who wishes to register to
5 vote shall fill out completely and sign the certificate of
6 registration. The qualified elector may seek the assistance of
7 any person in completing the certificate of registration.

8 D. A qualified elector who has filed for an order
9 of protection pursuant to the provisions of the [~~Family~~
10 ~~Violence~~] Protection Against Abuse and Violence Act and who
11 presents a copy of that order from a state or tribal court to
12 the registration officer shall be referred to the confidential
13 address program administered by the secretary of state pursuant
14 to the Confidential Substitute Address Act.

15 E. Completed certificates of registration may be
16 mailed or presented in person by the registrant or any other
17 person to the secretary of state, to the county clerk of the
18 county in which the registrant resides or to any other county
19 clerk in this state.

20 F. If the registrant wishes to vote in the next
21 election, the completed and signed certificate of registration
22 shall be delivered or mailed and postmarked within the time
23 frame provided in Subsection A of Section 1-4-8 NMSA 1978.

24 G. Within one business day after receipt of a
25 certificate of registration, the secretary of state shall send

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1 the certificate to the county clerk in the county where the
2 qualified elector resides. Within one business day after
3 receipt of a certificate of registration of another county, a
4 county clerk shall send the certificate of registration to the
5 county clerk in the county where the qualified elector resides.

6 H. Only when the certificate of registration is
7 properly filled out, signed by the qualified elector and
8 accepted for filing by the county clerk as evidenced by the
9 county clerk's signature or stamp and the date of acceptance
10 thereon shall it constitute an official public record of the
11 registration of the qualified elector. A qualified elector
12 complies with a voter registration deadline established in the
13 Election Code when a properly filled-out voter registration
14 certificate has been received by a county clerk or the
15 secretary of state, regardless of the date the certificate is
16 processed.

17 I. The secretary of state shall prescribe the form
18 of the certificate of registration, which form shall be a
19 postpaid mail-in format and shall be printed in Spanish and
20 English. The certificate of registration form shall be clear
21 and understandable to the average person and shall include
22 brief but sufficient instructions to enable the qualified
23 elector to complete the form without assistance. The form
24 shall also include:

25 (1) the question "Are you a citizen of the

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1 United States of America?" and boxes for the applicant to check
2 to indicate whether the applicant is or is not a citizen;

3 (2) the statement "If you checked 'no', do not
4 complete this form.";

5 (3) a statement informing the applicant that:

6 (a) if the form is submitted by mail by
7 the applicant and the applicant is registering for the first
8 time in New Mexico, the applicant must submit with the form a
9 copy of: 1) a photo identification issued by a government or
10 educational institution; or 2) a current utility bill, bank
11 statement, government check, paycheck, student identification
12 card or other government document, including identification
13 issued by an Indian nation, tribe or pueblo, that shows the
14 name and current address of the applicant; and

15 (b) if the applicant does not submit the
16 required documentary identification, the applicant will be
17 required to do so when voting in person or absentee; and

18 (4) a statement requiring the applicant to
19 swear or affirm that the information supplied by the applicant
20 is true."

21 SECTION 2. Section 29-15-2 NMSA 1978 (being Laws 1995,
22 Chapter 146, Section 2, as amended) is amended to read:

23 "29-15-2. DEFINITIONS.--As used in the Missing Persons
24 Information and Reporting Act:

25 A. "Brittany alert" means a notification relating

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1 to an endangered person:

2 (1) who is a missing person; and

3 (2) about whom there is a clear indication
4 that the person has a developmental disability as defined in
5 Subsection A of Section 28-16A-6 NMSA 1978 and that the
6 person's health or safety is at risk;

7 B. "child" means a person under the age of eighteen
8 years who is not emancipated;

9 C. "clearinghouse" means the missing persons
10 information clearinghouse;

11 D. "custodian" means a parent, guardian or other
12 person who exercises legal physical control, care or custody of
13 a child or of an adult with a developmental disability; or a
14 person who performs one or more activities of daily living for
15 an adult;

16 E. "endangered person" means a missing person who:

17 (1) is in imminent danger of causing harm to
18 the person's self;

19 (2) is in imminent danger of causing harm to
20 another;

21 (3) is in imminent danger of being harmed by
22 another or who has been harmed by another;

23 (4) has been a victim of a crime as provided
24 in the Crimes Against Household Members Act or in Section
25 30-3A-3 or 30-3A-3.1 NMSA 1978, or their equivalents in any

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1 other jurisdiction;

2 (5) is or was protected by an order of
3 protection pursuant to the [~~Family Violence~~] Protection Against
4 Abuse and Violence Act;

5 (6) has Alzheimer's disease, dementia or
6 another degenerative brain disorder or a brain injury; or

7 (7) has a developmental disability as defined
8 in Subsection A of Section 28-16A-6 NMSA 1978 and that person's
9 health or safety is at risk;

10 F. "immediate family member" means the spouse,
11 nearest relative or close friend of a person;

12 G. "law enforcement agency" means a law enforcement
13 agency of the state, a state agency or a political subdivision
14 of the state;

15 H. "lead station" means an AM radio station that
16 has been designated as the "state primary station" by the
17 federal communications commission for the emergency alert
18 system;

19 I. "missing person" means a person whose
20 whereabouts are unknown to the person's custodian or immediate
21 family member and the circumstances of whose absence indicate
22 that:

23 (1) the person did not leave the care and
24 control of the custodian or immediate family member voluntarily
25 and the taking of the person was not authorized by law; or

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1 (2) the person voluntarily left the care and
2 control of the custodian without the custodian's consent and
3 without intent to return;

4 J. "missing person report" means information that
5 is:

6 (1) given to a law enforcement agency on a
7 form used for sending information to the national crime
8 information center; and

9 (2) about a person whose whereabouts are
10 unknown to the reporter and who is alleged in the form
11 submitted by the reporter to be missing;

12 K. "person" means an individual, regardless of age;

13 L. "possible match" means the similarities between
14 unidentified human remains and a missing person that would lead
15 one to believe they are the same person;

16 M. "reporter" means the person who reports a
17 missing person;

18 N. "silver alert" means a notification relating to
19 an endangered person:

20 (1) who is a missing person; and

21 (2) who is fifty years or older; or

22 (3) about whom there is a clear indication
23 that the individual suffers from Alzheimer's disease or another
24 form of dementia, regardless of age;

25 O. "state agency" means an agency of the state, a

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1 political subdivision of the state or a public post-secondary
2 educational institution; and

3 P. "state registrar" means the employee so
4 designated by the public health division of the department of
5 health pursuant to the Vital Statistics Act."

6 SECTION 3. Section 30-1-15 NMSA 1978 (being Laws 2002,
7 Chapter 34, Section 1 and Laws 2002, Chapter 35, Section 1, as
8 amended) is amended to read:

9 "30-1-15. ALLEGED VICTIMS OF DOMESTIC ABUSE, STALKING OR
10 SEXUAL ASSAULT--FORBEARANCE OF COSTS.--

11 A. An alleged victim of an offense specified in
12 Subsection B of this section is not required to bear the cost
13 of:

14 (1) the prosecution of a misdemeanor or felony
15 domestic violence offense, including costs associated with
16 filing a criminal charge against an alleged perpetrator of the
17 offense;

18 (2) the filing, issuance or service of a
19 warrant;

20 (3) the filing, issuance or service of a
21 witness subpoena; or

22 (4) the filing, issuance, registration or
23 service of a protection order.

24 B. The provisions of Subsection A of this section
25 apply to:

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- 1 (1) alleged victims of domestic abuse as
2 defined in Section 40-13-2 NMSA 1978;
- 3 (2) sexual offenses described in Sections
4 30-9-11 through 30-9-14 and 30-9-14.3 NMSA 1978;
- 5 (3) crimes against household members described
6 in Sections 30-3-12 through 30-3-16 NMSA 1978;
- 7 (4) harassment, stalking and aggravated
8 stalking described in Sections 30-3A-2 through 30-3A-3.1 NMSA
9 1978; and
- 10 (5) the violation of an order of protection
11 that is issued pursuant to the [~~Family Violence~~] Protection
12 Against Abuse and Violence Act or entitled to full faith and
13 credit."

14 SECTION 4. That version of Section 31-12-12 NMSA 1978
15 (being Laws 2003, Chapter 387, Section 2, as amended) that is
16 to become effective July 1, 2024 is amended to read:

17 "31-12-12. DOMESTIC VIOLENCE OFFENDER TREATMENT OR
18 INTERVENTION FUND CREATED--APPROPRIATION--PROGRAM
19 REQUIREMENTS.--

20 A. The "domestic violence offender treatment or
21 intervention fund" is created in the state treasury. The fund
22 consists of gifts, grants, donations, appropriations and
23 distributions to the fund made pursuant to the Tax
24 Administration Act.

25 B. Balances in the domestic violence offender

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1 treatment or intervention fund are appropriated to the
2 children, youth and families department to provide funds to
3 domestic violence offender treatment or intervention programs
4 to defray the cost of providing treatment or intervention to
5 domestic violence offenders. Unexpended or unencumbered
6 balances remaining in the fund at the end of any fiscal year
7 shall not revert to the general fund.

8 C. Payment out of the domestic violence offender
9 treatment or intervention fund shall be made on vouchers issued
10 and signed by the secretary of children, youth and families
11 upon warrants drawn by the department of finance and
12 administration.

13 D. In order to be eligible for money from the
14 domestic violence offender treatment or intervention fund, a
15 domestic violence offender treatment or intervention program
16 shall include the following components in its program:

17 (1) an initial assessment to determine if a
18 domestic violence offender will benefit from participation in
19 the program;

20 (2) a written contract, which must be signed
21 by the domestic violence offender, that sets forth:

22 (a) attendance and participation
23 requirements;

24 (b) consequences for failure to attend
25 or participate in the program; and

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1 (c) a confidentiality clause that
2 prohibits disclosure of information revealed during treatment
3 or intervention sessions;

4 (3) strategies to hold domestic violence
5 offenders accountable for their violent behavior;

6 (4) a requirement that group discussions are
7 limited to members of the same gender;

8 (5) an education component that:

9 (a) defines physical, emotional, sexual,
10 economic and verbal abuse and techniques for stopping those
11 forms of abuse; and

12 (b) examines gender roles,
13 socialization, the nature of violence, the dynamics of power
14 and control and the effects of domestic violence on children;

15 (6) a requirement that a domestic violence
16 offender not be under the influence of alcohol or drugs during
17 a treatment or intervention session;

18 (7) a requirement, except with respect to a
19 domestic violence offender who is a voluntary participant in
20 the program, that the program provide monthly written reports
21 to the presiding judge or the domestic violence offender's
22 probation or parole officer regarding:

23 (a) proof of the domestic violence
24 offender's enrollment in the program;

25 (b) progress reports that address the

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1 domestic violence offender's attendance, fee payments and
2 compliance with other program requirements; and

3 (c) evaluations of progress made by the
4 domestic violence offender and recommendations as to whether or
5 not to require the offender's further participation in the
6 program; and

7 (8) a requirement that the term of the program
8 be at least fifty-two weeks.

9 E. Counseling for couples shall not be a component
10 of a domestic violence offender treatment or intervention
11 program.

12 F. As used in this section, "domestic violence
13 offender" means a person:

14 (1) convicted for an offense pursuant to the
15 provisions of the Crimes Against Household Members Act;

16 (2) convicted for violating an order of
17 protection granted by a court pursuant to the provisions of the
18 [~~Family Violence~~] Protection Against Abuse and Violence Act;

19 (3) referred to a domestic violence offender
20 treatment or intervention program by a judge, a domestic
21 violence special commissioner or the parole board; or

22 (4) who voluntarily participates in a domestic
23 violence offender treatment or intervention program."

24 SECTION 5. Section 32A-2-3 NMSA 1978 (being Laws 1993,
25 Chapter 77, Section 32, as amended) is amended to read:

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1 "32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

2 A. "delinquent act" means an act committed by a
3 child that would be designated as a crime under the law if
4 committed by an adult, not including a violation of Section
5 30-9-2 NMSA 1978, including the following offenses:

6 (1) any of the following offenses pursuant to
7 municipal traffic codes or the Motor Vehicle Code:

8 (a) driving while under the influence of
9 intoxicating liquor or drugs;

10 (b) failure to stop in the event of an
11 accident causing death, personal injury or damage to property;

12 (c) unlawful taking of a vehicle or
13 motor vehicle;

14 (d) receiving or transferring of a
15 stolen vehicle or motor vehicle;

16 (e) homicide by vehicle;

17 (f) injuring or tampering with a
18 vehicle;

19 (g) altering or changing of an engine
20 number or other vehicle identification numbers;

21 (h) altering or forging of a driver's
22 license or permit or any making of a fictitious license or
23 permit;

24 (i) reckless driving;

25 (j) driving with a suspended or revoked

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1 license; or

2 (k) an offense punishable as a felony;

3 (2) buying, attempting to buy, receiving,
4 possessing or being served any alcoholic liquor or being
5 present in a licensed liquor establishment, other than a
6 restaurant or a licensed retail liquor establishment, except in
7 the presence of the child's parent, guardian, custodian or
8 adult spouse. As used in this paragraph, "restaurant" means an
9 establishment where meals are prepared and served primarily for
10 on-premises consumption and that has a dining room, a kitchen
11 and the employees necessary for preparing, cooking and serving
12 meals. "Restaurant" does not include an establishment, as
13 defined in regulations promulgated by the director of the
14 special investigations unit of the department of public safety,
15 that serves only hamburgers, sandwiches, salads and other fast
16 foods;

17 (3) a violation of Section 30-29-2 NMSA 1978,
18 regarding the illegal use of a glue, aerosol spray product or
19 other chemical substance;

20 (4) a violation of the Controlled Substances
21 Act;

22 (5) escape from the custody of a law
23 enforcement officer or a juvenile probation or parole officer
24 or from any placement made by the department by a child who has
25 been adjudicated a delinquent child;

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1 (6) a violation of Section 30-15-1.1 NMSA 1978
2 regarding unauthorized graffiti on personal or real property;
3 or

4 (7) a violation of an order of protection
5 issued pursuant to the provisions of the [~~Family Violence~~]
6 Protection Against Abuse and Violence Act;

7 B. "delinquent child" means a child who has
8 committed a delinquent act;

9 C. "delinquent offender" means a delinquent child
10 who is subject to juvenile sanctions only and who is not a
11 youthful offender or a serious youthful offender;

12 D. "detention facility" means a place where a child
13 may be detained under the Children's Code pending court hearing
14 and does not include a facility for the care and rehabilitation
15 of an adjudicated delinquent child;

16 E. "felony" means an act that would be a felony if
17 committed by an adult;

18 F. "misdemeanor" means an act that would be a
19 misdemeanor or petty misdemeanor if committed by an adult;

20 G. "restitution" means financial reimbursement by
21 the child to the victim or community service imposed by the
22 court and is limited to easily ascertainable damages for injury
23 to or loss of property, actual expenses incurred for medical,
24 psychiatric and psychological treatment for injury to a person
25 and lost wages resulting from physical injury, which are a

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1 direct and proximate result of a delinquent act. "Restitution"
2 does not include reimbursement for damages for mental anguish,
3 pain and suffering or other intangible losses. As used in this
4 subsection, "victim" means a person who is injured or suffers
5 damage of any kind by an act that is the subject of a complaint
6 or referral to law enforcement officers or juvenile probation
7 authorities. Nothing contained in this definition limits or
8 replaces the provisions of Subsections A and B of Section
9 32A-2-27 NMSA 1978;

10 H. "serious youthful offender" means an individual
11 fifteen to eighteen years of age who is charged with and
12 indicted or bound over for trial for first degree murder. A
13 "serious youthful offender" is not a delinquent child as
14 defined pursuant to the provisions of this section;

15 I. "supervised release" means the release of a
16 juvenile, whose term of commitment has not expired, from a
17 facility for the care and rehabilitation of adjudicated
18 delinquent children, with specified conditions to protect
19 public safety and promote successful transition and
20 reintegration into the community. A juvenile on supervised
21 release is subject to monitoring by the department until the
22 term of commitment has expired and may be returned to custody
23 for violating conditions of release; and

24 J. "youthful offender" means a delinquent child
25 subject to adult or juvenile sanctions who is:

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1 (1) fourteen to eighteen years of age at the
2 time of the offense and who is adjudicated for at least one of
3 the following offenses:

4 (a) second degree murder, as provided in
5 Section 30-2-1 NMSA 1978;

6 (b) assault with intent to commit a
7 violent felony, as provided in Section 30-3-3 NMSA 1978;

8 (c) kidnapping, as provided in Section
9 30-4-1 NMSA 1978;

10 (d) aggravated battery, as provided in
11 Subsection C of Section 30-3-5 NMSA 1978;

12 (e) aggravated battery against a
13 household member, as provided in Subsection C of Section
14 30-3-16 NMSA 1978;

15 (f) aggravated battery upon a peace
16 officer, as provided in Subsection C of Section 30-22-25 NMSA
17 1978;

18 (g) shooting at a dwelling or occupied
19 building or shooting at or from a motor vehicle, as provided in
20 Section 30-3-8 NMSA 1978;

21 (h) dangerous use of explosives, as
22 provided in Section 30-7-5 NMSA 1978;

23 (i) criminal sexual penetration, as
24 provided in Section 30-9-11 NMSA 1978;

25 (j) robbery, as provided in Section

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1 30-16-2 NMSA 1978;

2 (k) aggravated burglary, as provided in
3 Section 30-16-4 NMSA 1978;

4 (l) aggravated arson, as provided in
5 Section 30-17-6 NMSA 1978; or

6 (m) abuse of a child that results in
7 great bodily harm or death to the child, as provided in Section
8 30-6-1 NMSA 1978;

9 (2) fourteen to eighteen years of age at the
10 time of the offense, who is adjudicated for any felony offense
11 and who has had three prior, separate felony adjudications
12 within a three-year time period immediately preceding the
13 instant offense. The felony adjudications relied upon as prior
14 adjudications shall not have arisen out of the same transaction
15 or occurrence or series of events related in time and location.
16 Successful completion of consent decrees is not considered a
17 prior adjudication for the purposes of this paragraph; or

18 (3) fourteen years of age and who is
19 adjudicated for first degree murder, as provided in Section
20 30-2-1 NMSA 1978."

21 SECTION 6. Section 34-8A-6 NMSA 1978 (being Laws 1979,
22 Chapter 346, Section 6, as amended) is amended to read:

23 "34-8A-6. METROPOLITAN COURT--RULES--APPEAL.--

24 A. The supreme court shall adopt separate rules of
25 procedure for the metropolitan courts. The rules shall provide

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1 simple procedures for the just, speedy and inexpensive
2 determination of any metropolitan court action.

3 B. Other than for actions brought pursuant to the
4 Uniform Owner-Resident Relations Act, the metropolitan court is
5 a court of record for civil actions. Any party aggrieved by a
6 judgment rendered by the metropolitan court in a civil action
7 may appeal to the court of appeals. The manner and method for
8 the appeal shall be set forth by supreme court rule.

9 C. The metropolitan court is not a court of record
10 for civil actions brought pursuant to the Uniform Owner-
11 Resident Relations Act. Any party aggrieved by a judgment
12 rendered by the metropolitan court in a civil action brought
13 pursuant to the Uniform Owner-Resident Relations Act may appeal
14 to the district court of the county in which the metropolitan
15 court is located within fifteen days after the judgment was
16 rendered. The appeal shall be de novo.

17 D. The metropolitan court is a court of record for
18 criminal actions involving driving while under the influence of
19 intoxicating liquor or drugs or involving domestic violence. A
20 criminal action involving domestic violence means an assault or
21 battery under any state law or municipal or county ordinance in
22 which the alleged victim is a household member as defined in
23 the [~~Family Violence~~] Protection Against Abuse and Violence
24 Act. Any party aggrieved by a judgment rendered by the
25 metropolitan court in a criminal action involving driving while

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1 under the influence of intoxicating liquor or drugs or
2 involving domestic violence may appeal to the court of appeals.
3 The manner and method of appeal shall be set forth by supreme
4 court rule.

5 E. The metropolitan court is not a court of record
6 for criminal actions other than driving while under the
7 influence of intoxicating liquor or drugs or domestic violence
8 actions. Any party aggrieved by a judgment rendered by the
9 metropolitan court in a criminal action, other than driving
10 while under the influence of intoxicating liquor or drugs or
11 domestic violence action, may appeal to the district court of
12 the county in which the metropolitan court is located within
13 fifteen days after the judgment was rendered. The appeal shall
14 be de novo.

15 F. All judgments rendered in civil actions in the
16 metropolitan court shall be subject to the same provisions of
17 law as those rendered in district court."

18 SECTION 7. Section 40-4-7.2 NMSA 1978 (being Laws 1999,
19 Chapter 123, Section 1) is amended to read:

20 "40-4-7.2. BINDING ARBITRATION OPTION--PROCEDURE.--

21 A. Parties to an action for divorce, separation,
22 custody or time-sharing, child support, spousal support,
23 marital property and debt division or attorney fees related to
24 such matters, including any post-judgment proceeding, may
25 stipulate to binding arbitration by a signed agreement that

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1 provides for an award with respect to one or more of the
2 following issues:

3 (1) valuation and division of real and
4 personal property;

5 (2) child support, custody, time-sharing or
6 visitation;

7 (3) spousal support;

8 (4) costs, expenses and attorney fees;

9 (5) enforceability of prenuptial and
10 post-nuptial agreements;

11 (6) determination and allocation of
12 responsibility for debt as between the parties;

13 (7) any civil tort claims related to any of
14 the foregoing; or

15 (8) other contested domestic relations
16 matters.

17 B. A court may not order a party to participate in
18 arbitration except to the extent a party has agreed to
19 participate pursuant to a written arbitration agreement. When
20 the party involved is a minor, [~~then his~~] the minor's parent
21 must consent to arbitration. When the party involved is a
22 minor with a guardian ad litem, the guardian ad litem must
23 provide written consent. When the party involved is a minor
24 without a guardian ad litem, [~~then~~] in order for arbitration to
25 proceed the court must find that arbitration is in the best

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1 interest of the minor.

2 C. Arbitration pursuant to this section shall be
3 heard by one or more [~~arbitrator~~] arbitrators. The court shall
4 appoint an arbitrator agreed to by the parties if the
5 arbitrator consents to the appointment.

6 D. If the parties have not agreed to an arbitrator,
7 the court shall appoint an arbitrator who:

8 (1) is an attorney in good standing with the
9 state bar of New Mexico;

10 (2) has practiced as an attorney for not less
11 than five years immediately preceding the appointment and
12 actively practiced in the area of domestic relations during
13 three of those five years. Any period of time during which a
14 person serves as a judge, special master or child support
15 hearing officer is considered as actively practicing in the
16 area of domestic relations; or

17 (3) is another professional licensed and
18 experienced in the subject matter that is the area of the
19 dispute.

20 E. An arbitrator [~~appointed pursuant to this~~
21 ~~section~~] is immune from liability in regard to the arbitration
22 proceeding to the same extent as the judge who has jurisdiction
23 of the action [~~that is~~] submitted to arbitration.

24 F. Objections to the qualifications of an
25 arbitrator must be raised in connection with the appointment by

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1 the court or they are waived. The court will permit parties to
2 raise objections based on qualifications within ten days of
3 appointment of an arbitrator. Parties who agree on an
4 arbitrator waive objections to ~~[his]~~ the arbitrator's
5 qualifications.

6 G. An arbitrator appointed pursuant to this
7 section:

8 (1) shall hear and make an award on each issue
9 submitted for arbitration pursuant to the arbitration agreement
10 subject to the provisions of the agreement; and

11 (2) has all of the following powers and
12 duties:

13 (a) to administer an oath or issue a
14 subpoena as provided by court rule;

15 (b) to issue orders regarding discovery
16 proceedings relative to the issues being arbitrated, including
17 appointment of experts; and

18 (c) to allocate arbitration fees and
19 expenses between the parties, including imposing a fee or
20 expense on a party or attorney as a sanction for failure to
21 provide information, subject to provisions of the arbitration
22 agreement.

23 H. An arbitrator, attorney or party in an
24 arbitration proceeding ~~[pursuant to this section]~~ shall
25 disclose in writing any circumstances that may affect an

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1 arbitrator's impartiality, including bias, financial interests,
2 personal interests or family relationships. Upon disclosure of
3 such a circumstance, a party may request disqualification of
4 the arbitrator. If the arbitrator does not withdraw within
5 seven days after a request for disqualification, the party may
6 file a motion for disqualification with the court.

7 I. If the court finds that the arbitrator is
8 disqualified, the court may appoint another arbitrator, subject
9 to the provisions of the arbitration agreement.

10 J. As soon as practicable after the appointment of
11 the arbitrator, the parties and attorneys shall confer with the
12 arbitrator to consider all of the following:

- 13 (1) scope of the issues submitted;
14 (2) date, time and place of the hearing;
15 (3) witnesses, including experts, who may
16 testify;
17 (4) appointment of experts and a schedule for
18 exchange of expert reports or summary of expert testimony; and
19 (5) subject to the provisions of Subsection K
20 of this section, exhibits, documents or other information each
21 party considers material to the case and a schedule for
22 production or exchange of the information. An objection not
23 made before the hearing to production or lack of production of
24 information is waived.

25 K. The arbitrator shall order reasonable access to

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1 information for each party that is material to the arbitration
2 issues prior to the hearing, including the following:

3 (1) a current complete sworn financial
4 disclosure statement, when financial matters are at issue;

5 (2) if a court has issued an order concerning
6 an issue subject to arbitration, a copy of the order;

7 (3) any relevant documents related to the
8 arbitration issues defined by the arbitrator;

9 (4) proposed award by each party for each
10 issue subject to arbitration; and

11 (5) expert opinions of experts to be used by
12 either party or appointed by the arbitrator.

13 L. Except as otherwise provided by this section,
14 court rule or the arbitration agreement, a record shall not
15 [~~ordinarily~~] be made of an arbitration hearing [~~pursuant to~~
16 ~~this section~~] unless either party requests it. If a record is
17 not required, an arbitrator may make a record to be used only
18 by the arbitrator to aid in reaching the decision.

19 M. Unless waived by the parties, a record shall be
20 made of that portion of the hearing that concerns child
21 custody, visitation or time-sharing.

22 N. The arbitration agreement may set forth any
23 standards on which an award should be based, including the law
24 to be applied. An arbitration agreement shall provide that in
25 deciding child support issues, the arbitrator shall apply

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1 Section 40-4-11.1 NMSA 1978 when setting or modifying a child
2 support order.

3 O. Unless otherwise agreed to by the parties and
4 arbitrator in writing or on the record, the arbitrator shall
5 issue the written award on each issue within sixty days after
6 the end of the hearing and after receipt of proposed findings
7 of fact and conclusions of law if requested by the arbitrator.

8 P. If the parties reach an agreement regarding
9 child custody, time-sharing or visitation, the agreement shall
10 be placed on the record by the parties under oath and shall be
11 included in the arbitrator's written award.

12 Q. The arbitrator retains jurisdiction to correct
13 errors or omissions in an award upon motion by a party to the
14 arbitrator within twenty days after the award is issued or upon
15 the arbitrator's own motion. Another party to the arbitration
16 may respond to the motion within seven days after the motion is
17 made. The arbitrator shall make a decision on the motion
18 within seven days after the expiration of the response time
19 period.

20 R. The court shall enforce an arbitrator's award or
21 other order [~~issued pursuant to this section~~] in the same
22 manner as an order issued by the court. A party may make a
23 motion to the court to enforce an arbitrator's award or order.

24 S. [~~Any~~] A party in an action that was submitted to
25 arbitration [~~pursuant to this section~~] shall file with the

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1 court a stipulated order or a motion to enforce the award
2 within twenty-one days after the arbitrator's award is issued
3 unless otherwise agreed to by the parties in writing or unless
4 the arbitrator or court grants an extension.

5 T. If a party applies to the court for vacation of
6 an arbitrator's award [~~in binding arbitration issued pursuant~~
7 ~~to this section~~] that concerns child custody, time-sharing or
8 visitation, the court shall review the award [~~based~~] using only
9 [~~upon~~] the record of the arbitration hearing and factual
10 matters that have arisen since the arbitration hearing that are
11 relevant to the claim. The court may vacate an award of
12 custody, time-sharing or visitation made in binding arbitration
13 if the court finds that circumstances have changed since
14 issuance of the award that are adverse to the best interests of
15 the child, upon a finding that the award will cause harm or be
16 detrimental to a child or pursuant to Subsections U and V of
17 this section. An arbitration agreement may provide a broader
18 scope of review of custody, time-sharing or visitation issues
19 by the court, and such review will apply if broader than this
20 section.

21 U. If a party applies to the court for vacation or
22 modification of an arbitrator's award [~~issued pursuant to this~~
23 ~~section~~], the court shall review the award only as provided in
24 Subsections T and V of this section.

25 V. [~~If a party applies under this section~~] The

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1 court may vacate, modify or correct an award under any of the
2 following circumstances:

3 (1) the award was procured by corruption,
4 fraud or other undue means;

5 (2) there was evident partiality by an
6 arbitrator or misconduct prejudicing a party's rights;

7 (3) the arbitrator exceeded [~~his~~] the
8 arbitrator's powers; or

9 (4) the arbitrator refused to postpone the
10 hearing on a showing of sufficient cause or refused to hear
11 evidence substantial and material to the controversy.

12 W. An application to vacate an award on grounds
13 stated in Subsections [~~U~~] T and V of this section shall be
14 decided by the court. If an award is vacated on grounds stated
15 in Paragraph (3) or (4) of Subsection V of this section, the
16 court may order a rehearing before the arbitrator who made the
17 award when both parties consent to the rehearing before the
18 arbitrator who made the award.

19 X. An appeal from an arbitration award [~~pursuant to~~
20 ~~this section~~] that the court confirms, vacates, modifies or
21 corrects shall be taken in this same manner as from an order or
22 judgment in other domestic relations actions.

23 Y. No arbitrator may decide issues of a criminal
24 nature or make decisions on petitions pursuant to the [~~Family~~
25 ~~Violence~~] Protection Against Abuse and Violence Act."

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1 SECTION 8. Section 40-13-1 NMSA 1978 (being Laws 1987,
2 Chapter 286, Section 1, as amended) is amended to read:

3 "40-13-1. SHORT TITLE.--Chapter 40, Article 13 NMSA 1978
4 may be cited as the "~~[Family Violence]~~ Protection Against Abuse
5 and Violence Act"."

6 SECTION 9. Section 40-13-2 NMSA 1978 (being Laws 1987,
7 Chapter 286, Section 2, as amended) is amended to read:

8 "40-13-2. DEFINITIONS.--As used in the ~~[Family Violence]~~
9 Protection Against Abuse and Violence Act:

10 A. "abuse" means:

11 (1) an incident or pattern of stalking or
12 sexual assault, whether committed by a household member or not;
13 or

14 (2) an incident or pattern of behavior by a
15 household member against another household member consisting of
16 or resulting in:

17 (a) physical harm or temporary or
18 permanent bodily injury;

19 (b) battery, assault or threats causing
20 imminent fear of abuse;

21 (c) strangulation or suffocation;

22 (d) severe emotional distress that may
23 include fear, depression, anxiety or loss of sleep;

24 (e) harassment or intimidation that may
25 include repeatedly driving by a residence or workplace for no

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1 lawful purpose or following in public places;

2 (f) telephone harassment, internet
3 harassment or harassment through other digital or electronic
4 means;

5 (g) kidnapping, false imprisonment or
6 restricting or prohibiting movement;

7 (h) interference with communication;

8 (i) exploitation or forced criminal
9 activity;

10 (j) criminal damage to or deprivation of
11 real or personal property or damage to jointly owned or
12 community property;

13 (k) harm or threatened harm to children;

14 (l) harm or threatened harm to an
15 animal;

16 (m) unauthorized distribution of
17 sensitive images;

18 (n) criminal trespass; or

19 (o) threats to disclose immigration
20 status;

21 B. "animal" means a living nonhuman creature,
22 domestic or wild;

23 ~~[A-]~~ C. "continuing personal relationship" means a
24 dating or intimate relationship;

25 ~~[B-]~~ D. "co-parents" means persons who have a child

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1 in common, regardless of whether they have been married or have
2 lived together at any time;

3 ~~[G.]~~ E. "court" means the district court of the
4 judicial district where an alleged victim of ~~[domestic]~~ abuse
5 resides or is found or where the alleged abuse occurred;

6 ~~[D. — "domestic abuse":~~

7 ~~(1) means an incident of stalking or sexual~~
8 ~~assault whether committed by a household member or not;~~

9 ~~(2) means an incident by a household member~~
10 ~~against another household member consisting of or resulting in:~~

11 ~~(a) physical harm;~~

12 ~~(b) severe emotional distress;~~

13 ~~(c) bodily injury or assault;~~

14 ~~(d) a threat causing imminent fear of~~
15 ~~bodily injury by any household member;~~

16 ~~(e) criminal trespass;~~

17 ~~(f) criminal damage to property;~~

18 ~~(g) repeatedly driving by a residence or~~
19 ~~work place;~~

20 ~~(h) telephone harassment;~~

21 ~~(i) harassment;~~

22 ~~(j) strangulation;~~

23 ~~(k) suffocation; or~~

24 ~~(l) harm or threatened harm to children~~
25 ~~as set forth in this paragraph; and~~

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1 ~~(3) does not mean the use of force in self-~~
2 ~~defense or the defense of another;]~~

3 F. "credible threat" means a condition or situation
4 that causes a reasonable person, based on the totality of the
5 circumstances, to fear for the person's physical safety or for
6 the physical safety of another and may be demonstrated by
7 evidence of a statement, an act or a course of conduct
8 attributed to the respondent and does not require the use or
9 threatened use of a firearm;

10 ~~[E-]~~ G. "firearm" means any weapon that will or is
11 designed to or may readily be converted to expel a projectile
12 by the action of an explosion or the frame or receiver of any
13 such weapon;

14 ~~[F-]~~ H. "household member" means a spouse, former
15 spouse, parent, present or former stepparent, present or former
16 parent-in-law, grandparent, grandparent-in-law, child,
17 stepchild, grandchild, co-parent of a child or a person with
18 whom the petitioner has had a continuing personal relationship.
19 Cohabitation is not necessary to be deemed a household member
20 for purposes of this section;

21 ~~[G-]~~ I. "law enforcement officer" means a public
22 official or public officer vested by law with a duty to
23 maintain public order or to make arrests for crime, whether
24 that duty extends to all crimes or is limited to specific
25 crimes;

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1 ~~[H. "mutual order of protection" means an order of~~
2 ~~protection that includes provisions that protect both parties;~~

3 ~~[I.]~~ J. "order of protection" means an injunction or
4 a restraining or other court order granted for the protection
5 of a victim of ~~[domestic]~~ abuse;

6 ~~[J.]~~ K. "protected party" means a person protected
7 by an order of protection;

8 ~~[K.]~~ L. "restrained party" means a person who is
9 restrained by an order of protection;

10 ~~[L.]~~ M. "strangulation" has the same meaning as set
11 forth in Section 30-3-11 NMSA 1978; ~~[and~~

12 ~~[M.]~~ N. "suffocation" has the same meaning as set
13 forth in Section 30-3-11 NMSA 1978; and

14 O. "writing" and "written" means a tangible or
15 electronic record, including handwriting, typewriting,
16 printing, photostating, photography, audio or video recording
17 or other electronic communications."

18 SECTION 10. Section 40-13-3 NMSA 1978 (being Laws 1987,
19 Chapter 286, Section 3, as amended) is amended to read:

20 "40-13-3. PETITION FOR ORDER OF PROTECTION--CONTENTS--
21 STANDARD FORMS.--

22 A. A victim of ~~[domestic]~~ abuse may petition the
23 court under the ~~[Family Violence]~~ Protection Against Abuse and
24 Violence Act for an order of protection.

25 B. The petition shall be made under oath or shall

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1 be accompanied by a sworn affidavit setting out specific facts
2 showing the alleged [~~domestic~~] abuse.

3 C. The petition shall state whether any [~~other~~]
4 domestic action is pending between the petitioner and the
5 respondent.

6 D. [~~If any other domestic action is pending between~~
7 ~~the petitioner and the respondent~~] The parties shall not be
8 compelled to mediate any aspect of the case arising from the
9 [~~Family Violence~~] Protection Against Abuse and Violence Act
10 unless the court finds that appropriate safeguards exist to
11 protect each of the parties and that both parties can fairly
12 mediate with such safeguards.

13 E. An action brought under the [~~Family Violence~~]
14 Protection Against Abuse and Violence Act is independent of any
15 [~~proceeding for annulment, separation or divorce between the~~
16 ~~parties~~] civil case involving the parties, including a
17 proceeding for annulment, separation or divorce, and a criminal
18 case involving the parties that did not arise from a violation
19 of the Protection Against Abuse and Violence Act.

20 F. Remedies granted pursuant to the [~~Family~~
21 ~~Violence~~] Protection Against Abuse and Violence Act are in
22 addition to and shall not limit other civil or criminal
23 remedies available to the parties.

24 G. Standard simplified petition forms with
25 instructions for completion shall be available to all parties.

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1 Law enforcement agencies shall keep such forms and make them
2 available upon request to alleged victims of [~~domestic~~] abuse.

3 H. The petitioner shall notify the court if the
4 petitioner or respondent speaks a language other than English
5 and, upon receipt of that notice, the clerk of the court shall
6 arrange for necessary translation or interpretation services to
7 be provided.

8 I. An order of protection may be issued to protect
9 or restrain a minor.

10 J. A minor who is thirteen years of age or older
11 and a victim of abuse may petition the court for an order of
12 protection on the minor's own behalf if the minor files a
13 petition:

14 (1) for protection against the minor's co-
15 parent or a person with whom the minor has had a continuing
16 personal relationship; or

17 (2) that contains allegations of stalking or
18 sexual assault."

19 SECTION 11. Section 40-13-3.1 NMSA 1978 (being Laws 1995,
20 Chapter 176, Section 1, as amended) is amended to read:

21 "40-13-3.1. FORBEARANCE OF COSTS [~~ASSOCIATED WITH~~
22 ~~DOMESTIC ABUSE OFFENSES~~].--

23 A. An alleged victim of [~~domestic~~] abuse shall not
24 be required to bear the cost of:

25 (1) the prosecution of a misdemeanor or felony

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1 offense arising out of an incident of [~~domestic~~] abuse,
2 including costs associated with filing a criminal charge
3 against the alleged perpetrator of the abuse;

4 (2) the filing, issuance or service of a
5 warrant;

6 (3) the filing, issuance or service of a
7 witness subpoena;

8 (4) the filing, issuance or service of a
9 petition for an order of protection;

10 (5) the filing, issuance or service of an
11 order of protection; or

12 (6) obtaining law enforcement reports or
13 photographs or copies of photographs relating to the alleged
14 abuse or pattern of abuse.

15 B. No witness fee shall be charged where prohibited
16 by federal law."

17 SECTION 12. Section 40-13-3.2 NMSA 1978 (being Laws 1999,
18 Chapter 142, Section 2, as amended) is amended to read:

19 "40-13-3.2. [~~EX PARTE~~] EMERGENCY ORDERS OF PROTECTION.--

20 A. [~~The district court may issue an ex parte~~
21 ~~written emergency order of protection when a law enforcement~~
22 ~~officer states to the court in person, by telephone or via~~
23 ~~facsimile and files a sworn written statement, setting forth~~
24 ~~the need for an emergency order of protection, and the court~~
25 ~~finds reasonable grounds to believe that the alleged victim or~~

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1 ~~the alleged victim's child is in immediate danger of domestic~~
2 ~~abuse following an incident of domestic abuse. The written~~
3 ~~statement shall include the location and telephone number of~~
4 ~~the alleged perpetrator, if known.] A law enforcement officer~~
5 may request an emergency order of protection by written
6 petition to the court or orally in person, by telephone or by
7 other electronic or digital means. The law enforcement officer
8 shall inform the victim that an officer may petition the court
9 for an emergency order of protection on the victim's behalf.
10 The petition shall set forth the need for the emergency order
11 of protection and, if known, include the location and telephone
12 number of the alleged perpetrator. A criminal complaint does
13 not have to be filed in order for a law enforcement officer to
14 request an emergency order of protection. The court may issue
15 an emergency order of protection when the court finds
16 reasonable grounds that the alleged victim and any other
17 household members are in immediate danger or that an act of
18 abuse has occurred or may occur.

19 B. A law enforcement officer who receives an
20 emergency order of protection, whether in writing [~~by~~
21 ~~telephone, or by facsimile transmission]~~ or orally in person,
22 by telephone or by other electronic or digital means, from the
23 court shall:

24 (1) if necessary, pursuant to the judge's oral
25 approval, write and sign the order on an approved form;

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1 (2) if possible, immediately serve a signed
2 copy of the order on the restrained party and complete the
3 appropriate affidavit of service;

4 (3) immediately provide the protected party
5 with a written signed copy of the order; and

6 (4) provide the original order to the court by
7 the close of business on the next [~~judicial~~] day the court is
8 open.

9 C. The court may grant the following relief in an
10 emergency order of protection upon a probable cause finding
11 that [~~domestic~~] abuse has occurred:

12 (1) enjoin the restrained party from
13 threatening to commit or committing acts of [~~domestic~~] abuse
14 against the protected party or any designated household
15 members;

16 (2) enjoin the restrained party from any
17 contact with the protected party, including harassing,
18 telephoning, contacting or otherwise communicating with the
19 protected party; and

20 (3) grant temporary custody of any minor child
21 in common with the parties to the protected party, if
22 necessary.

23 D. A district judge shall be available [~~as~~
24 ~~determined by~~] in each judicial district to hear petitions for
25 emergency orders of protection at all times.

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1 E. An emergency order of protection expires
2 seventy-two hours after issuance or at the end of the next
3 [~~judicial~~] day the court is open, whichever time is latest.
4 The expiration date shall be clearly stated on the emergency
5 order of protection.

6 F. A person may appeal the issuance of an emergency
7 order of protection to the court that issued the order. An
8 appeal may be heard as soon as the [~~judicial~~] next day the
9 court is open following the issuance of the order.

10 G. Upon a proper petition, a [~~district~~] court may
11 issue a temporary order of protection that is based upon the
12 same incident of [~~domestic~~] abuse that was alleged in an
13 emergency order of protection.

14 H. Emergency orders of protection are enforceable
15 in the same manner as other orders of protection issued
16 pursuant to the provisions of the [~~Family Violence~~] Protection
17 Against Abuse and Violence Act."

18 SECTION 13. Section 40-13-4 NMSA 1978 (being Laws 1987,
19 Chapter 286, Section 4, as amended) is amended to read:

20 "40-13-4. TEMPORARY ORDER OF PROTECTION--HEARING--
21 DISMISSAL.--

22 A. Upon the filing of a petition for an order of
23 protection, the court shall:

24 (1) [~~immediately grant~~] on the same day, issue
25 an ex parte temporary order of protection without bond if there

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1 is probable cause from the specific facts shown by the
2 affidavit or by the petition to give the judge reason to
3 believe that an act of [~~domestic~~] abuse has occurred or that
4 there is immediate danger of abuse;

5 (2) cause the temporary order of protection
6 together with notice of hearing to be served immediately on the
7 alleged perpetrator of the [~~domestic~~] abuse; and

8 (3) within ten days after the granting of the
9 temporary order of protection, hold a hearing on the question
10 of continuing the order. [~~or~~

11 ~~(4) if an ex parte order is not granted, serve~~
12 ~~notice to appear upon the parties and hold a hearing on the~~
13 ~~petition for order of protection within seventy-two hours after~~
14 ~~the filing of the petition; provided if notice of hearing~~
15 ~~cannot be served within seventy-two hours, the temporary order~~
16 ~~of protection shall be automatically extended for ten days.]~~

17 B. [~~If the court grants a~~] In the temporary order
18 of protection, [~~it may award temporary custody and visitation~~
19 ~~of any children involved when appropriate~~] the court shall:

20 (1) enjoin the restrained party from
21 committing or threatening to commit acts of abuse against the
22 protected party or member of the protected party's household;

23 (2) enjoin the restrained party from any
24 contact or communication with the protected party; and

25 (3) when appropriate, award temporary custody

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1 and visitation or supervised visitation with any child or
2 children and give primary consideration to the safety of the
3 protected party and child or children.

4 C. Except for petitions alleging stalking or sexual
5 assault, if the court finds that the alleged perpetrator is not
6 a household member, the court shall dismiss the petition.

7 D. If, upon review of a petition for an order of
8 protection, the court does not have sufficient information to
9 find or does not find probable cause to believe that an act of
10 abuse has occurred, the court shall hold a hearing within
11 seventy-two hours to allow the petitioner to provide additional
12 information to the court. Personal service is not required to
13 conduct a seventy-two-hour hearing. At the conclusion of the
14 hearing, the court shall issue either a temporary order of
15 protection or an order dismissing the petition."

16 SECTION 14. Section 40-13-5 NMSA 1978 (being Laws 1987,
17 Chapter 286, Section 5, as amended) is amended to read:

18 "40-13-5. ORDER OF PROTECTION--CONTENTS--REMEDIES--TITLE
19 TO PROPERTY NOT AFFECTED [~~MUTUAL ORDER OF PROTECTION~~].--

20 A. Upon finding that [~~domestic~~] abuse has occurred
21 or that there is immediate danger of abuse or upon stipulation
22 of the parties, the court shall enter an order of protection on
23 the same day ordering the restrained party [~~to~~]:

24 (1) to refrain from abusing the protected
25 party or any other household member; and

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1 (2) if the order is issued pursuant to this
2 section and if the court also determines that the restrained
3 party presents a credible threat to the physical safety of the
4 household member after the restrained party has received notice
5 and had an opportunity to be heard or by stipulation of the
6 parties, to:

7 (a) deliver any firearm in the
8 restrained party's possession, care, custody or control to a
9 law enforcement agency, law enforcement officer or federal
10 firearms licensee while the order of protection is in effect;
11 and

12 (b) refrain from purchasing, receiving,
13 or possessing or attempting to purchase, receive or possess any
14 firearm while the order of protection is in effect.

15 B. In an order of protection entered pursuant to
16 Subsection A of this section, the court shall specifically
17 describe the acts the court has ordered the restrained party to
18 do or refrain from doing. As a part of any order of
19 protection, the court [~~may~~]:

20 (1) may grant sole possession of the residence
21 or household to the protected party during the period the order
22 of protection is effective or order the restrained party to
23 provide temporary suitable alternative housing for the
24 protected party and any children to whom the restrained party
25 owes a legal obligation of support;

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1 (2) may award temporary custody of any
2 children involved when appropriate and provide for visitation
3 rights, child support and temporary support for the protected
4 party on a basis that gives primary consideration to the safety
5 of the protected party and the children; provided that any
6 child custody and visitation order issued with the order of
7 protection may only be effective for a period of six months.
8 Any custody or visitation order may be extended for good cause
9 shown for no longer than an additional six months;

10 (3) may issue the order of protection between
11 the parties for a period of time independent of any custody or
12 property action;

13 [~~(3)~~] (4) may order that the restrained party
14 shall not initiate contact with the protected party;

15 [~~(4)~~] (5) may restrain a party from
16 transferring, concealing, encumbering or otherwise disposing of
17 the other party's property or the joint property of the parties
18 except in the usual course of business or for the necessities
19 of life and require the parties to account to the court for all
20 such transferences, encumbrances and expenditures made after
21 the order is served or communicated to the restrained party;

22 (6) may grant to a party the exclusive or
23 shared possession and control of any animal kept, owned or
24 leased by either party or by the minor child or minor children
25 residing in the household of either party. The court may order

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1 a party to stay away from the animal and may forbid a party
2 from taking, transferring, concealing, mistreating, harming or
3 disposing of the animal;

4 [~~(5)~~] (7) may order the restrained party to
5 reimburse the protected party or any other household member for
6 expenses reasonably related to the occurrence of [~~domestic~~]
7 abuse, including medical expenses, counseling expenses, the
8 expense of seeking temporary shelter, expenses for the
9 replacement or repair of damaged property or the expense of
10 lost wages;

11 [~~(6)~~] (8) may order the restrained party to
12 participate in, at the restrained party's expense, professional
13 counseling programs deemed appropriate by the court, including
14 counseling programs for perpetrators of [~~domestic~~] abuse,
15 alcohol abuse or abuse of controlled substances; [~~and~~]

16 [~~(7)~~] (9) may order other injunctive relief as
17 the court deems necessary for the protection of a party,
18 including orders to law enforcement agencies as provided by
19 this section; and

20 (10) shall not order that the protected party
21 participate in treatment or counseling related to abuse.

22 C. The order of protection shall contain notice
23 that violation of any provision of the order of protection is a
24 violation of state law and that federal law, 18 U.S.C. 922, et
25 seq., prohibits possession of firearms by certain persons.

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1 When appropriate, the order of protection shall also contain
2 notice that all restrained parties are prohibited from owning
3 or possessing a firearm while the order of protection is in
4 effect. Firearms prohibitions shall apply to stipulated orders
5 and to contested orders when the respondent has been served
6 with notice of the hearing and has had the opportunity to
7 participate.

8 D. If the order of protection supersedes or alters
9 prior orders of the court pertaining to domestic matters
10 between the parties, the order shall say so on its face. If an
11 action relating to child custody or child support is pending or
12 has concluded with entry of an order at the time the petition
13 for an order of protection was filed, the court may enter an
14 initial order of protection, but the portion of the order
15 dealing with child custody or child support will then be
16 transferred to the court that has or continues to have
17 jurisdiction over the pending or prior custody or support
18 action.

19 ~~[E. A mutual order of protection shall be issued~~
20 ~~only in cases where both parties have petitioned the court and~~
21 ~~the court makes detailed findings of fact indicating that both~~
22 ~~parties acted primarily as aggressors and that neither party~~
23 ~~acted primarily in self-defense.~~

24 F.] E. No order issued under the [Family Violence]
25 Protection Against Abuse and Violence Act shall affect title to

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1 any property or allow a party to transfer, conceal, encumber or
2 otherwise dispose of another party's property or the joint or
3 community property of the parties.

4 ~~[G.]~~ F. Either party may request a review hearing
5 to amend an order of protection. An order of protection
6 involving child custody or support may be modified without
7 proof of a substantial or material change of circumstances.

8 ~~[H.]~~ G. An order of protection shall not be issued
9 unless a petition or a counter petition has been filed.

10 H. An order of protection may be issued against a
11 party who has been served with a copy of a petition for an
12 order of protection and a notice to appear and has had an
13 opportunity to participate; provided that the proof of service
14 is in the court file. If a party fails to appear at the ten-
15 day hearing in which an order of protection is issued, the
16 court shall mail a copy of the order to the party's address of
17 record."

18 **SECTION 15.** Section 40-13-5.1 NMSA 1978 (being Laws 2016,
19 Chapter 32, Section 1 and Laws 2016, Chapter 33, Section 1) is
20 amended to read:

21 "40-13-5.1. EXTENDED ORDER OF PROTECTION.--

22 A. In the sentencing proceeding for a person
23 convicted of criminal sexual penetration pursuant to Section
24 30-9-11 NMSA 1978, a prosecutor may request that the criminal
25 court grant the victim an order of protection to remain in

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1 effect for the duration of the criminal court's jurisdiction
2 over the person.

3 B. At any time after the expiration of a criminal
4 court's jurisdiction over a person against whom an order of
5 protection was granted pursuant to a request pursuant to
6 Subsection A of this section, the victim may:

7 (1) file a petition for an order of protection
8 against the person; and

9 (2) submit evidence of the person's conviction
10 for criminal sexual penetration, including out-of-state, as
11 cause for the court to grant the order of protection.

12 C. Based on evidence submitted pursuant to
13 Subsection B of this section, a court may take judicial notice
14 of the facts that led to a person's conviction for criminal
15 sexual penetration and a victim shall not be required to appear
16 before the court on the victim's petition for an order of
17 protection; provided, however, that another person may appear
18 on the victim's behalf.

19 D. A court may grant an order of protection
20 pursuant to this section for any length of time, including for
21 a victim's lifetime.

22 E. Notwithstanding the provisions of Subsection C
23 of Section 40-13-6 NMSA 1978, an order of protection granted
24 pursuant to this section shall continue until the expiration
25 provided in the order, if any, or until modified or rescinded

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1 upon a motion by the ~~[victim]~~ protected party."

2 SECTION 16. Section 40-13-6 NMSA 1978 (being Laws 1987,
3 Chapter 286, Section 6, as amended) is amended to read:

4 "40-13-6. SERVICE OF ORDER--DURATION--PENALTY--REMEDIES
5 NOT EXCLUSIVE.--

6 A. An order of protection granted under the ~~[Family~~
7 ~~Violence]~~ Protection Against Abuse and Violence Act shall be
8 filed with the clerk of the court, and a copy shall be sent by
9 the clerk to the local law enforcement agency. The order shall
10 be ~~[personally served upon the restrained party, unless the~~
11 ~~restrained party or the restrained party's attorney was present~~
12 ~~at the time the order was issued]~~ provided to the parties or
13 the parties' attorneys. The order shall be filed and ~~[served]~~
14 provided to the parties and a local law enforcement agency
15 without cost to the protected party.

16 B. A local law enforcement agency receiving an
17 order of protection from the clerk of the court that was issued
18 under the ~~[Family Violence]~~ Protection Against Abuse and
19 Violence Act shall have the order entered in the national crime
20 information center's order of protection file within seventy-
21 two hours of receipt. This does not include temporary orders
22 of protection entered pursuant to the provisions of Section
23 40-13-4 NMSA 1978.

24 C. An order of protection ~~[granted by the court~~
25 ~~involving custody or support shall be effective for a fixed~~

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1 ~~period of time not to exceed six months. The order may be~~
2 ~~extended for good cause upon motion of the protected party for~~
3 ~~an additional period of time not to exceed six months.~~
4 ~~Injunctive orders shall continue until modified or rescinded~~
5 ~~upon motion by either party or until the court approves a~~
6 ~~subsequent consent agreement entered into by the parties]~~
7 issued by the court may be in effect for a fixed period of time
8 of any length; provided that the court deems the period of time
9 appropriate to protect the safety of the protected party. Upon
10 motion and after a hearing, an existing order of protection
11 that may expire may be extended for good cause shown.

12 D. A [~~peace~~] law enforcement officer may arrest
13 without a warrant and take into custody a restrained party
14 [~~whom~~] who the [~~peace~~] officer has probable cause to believe
15 has violated an order of protection that is issued pursuant to
16 the [~~Family Violence~~] Protection Against Abuse and Violence Act
17 or entitled to full faith and credit.

18 E. A restrained party convicted of violating an
19 order of protection granted by a court under the [~~Family~~
20 ~~Violence~~] Protection Against Abuse and Violence Act is guilty
21 of a misdemeanor and shall be sentenced in accordance with
22 Section 31-19-1 NMSA 1978. Upon a second or subsequent
23 conviction, an offender shall be sentenced to a jail term of
24 not less than seventy-two consecutive hours that shall not be
25 suspended, deferred or taken under advisement.

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1 F. In addition to any other punishment provided in
2 the [~~Family Violence~~] Protection Against Abuse and Violence
3 Act, the court shall order a person convicted to make full
4 restitution to the party injured by the violation of an order
5 of protection and shall order the person convicted to
6 participate in and complete a [~~program of professional~~
7 ~~counseling~~] domestic violence offender treatment or
8 intervention program or other relevant treatment or
9 intervention program, at the person's own expense, if possible.

10 G. In addition to charging the person with
11 violating an order of protection, a [~~peace~~] law enforcement
12 officer shall file all other possible criminal charges arising
13 from an incident of [~~domestic~~] abuse when probable cause
14 exists.

15 H. The remedies provided in the [~~Family Violence~~]
16 Protection Against Abuse and Violence Act are in addition to
17 any other civil or criminal remedy available to the protected
18 party or the state."

19 SECTION 17. Section 40-13-7 NMSA 1978 (being Laws 1987,
20 Chapter 286, Section 7, as amended) is amended to read:

21 "40-13-7. LAW ENFORCEMENT OFFICERS--EMERGENCY
22 ASSISTANCE--LIMITED LIABILITY--PROVIDING NOTIFICATION TO
23 VICTIMS WHEN AN ALLEGED PERPETRATOR IS RELEASED FROM
24 DETENTION--STATEMENT IN JUDGMENT AND SENTENCE DOCUMENT.--

25 A. A person who allegedly has been a victim of

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1 ~~[domestic]~~ abuse may request the assistance of a local law
2 enforcement agency.

3 B. A local law enforcement officer responding to
4 the request for assistance shall be required to take whatever
5 steps are reasonably necessary to protect the victim and other
6 household members from further ~~[domestic]~~ abuse, including:

7 (1) ~~[advising]~~ informing the victim of the
8 remedies available under the ~~[Family Violence]~~ Protection
9 Against Abuse and Violence Act; the right to file a written
10 statement, a criminal complaint and a request for an arrest
11 warrant; and the availability of ~~[domestic violence]~~ shelters,
12 medical care, counseling and other services;

13 (2) upon the request of the victim, providing
14 or arranging for transportation of the victim to a medical
15 facility or place of shelter;

16 (3) upon the request of the victim,
17 accompanying the victim to the victim's residence to obtain the
18 victim's clothing and personal effects required for immediate
19 needs and the clothing and personal effects of any children
20 then in the care of the victim;

21 (4) upon the request of the victim, ~~[assist]~~
22 assisting in placing the victim in possession of the dwelling
23 or premises or otherwise assist in execution, enforcement or
24 service of an order of protection;

25 (5) arresting the alleged perpetrator ~~[when~~

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1 ~~appropriate~~] and including a written statement in the
2 [~~attendant~~] police report to indicate that the arrest of the
3 alleged perpetrator was [~~in whole or in part, premised~~] based
4 upon probable cause to believe that the alleged perpetrator
5 committed [~~domestic~~] abuse against the victim. [~~and, when~~
6 ~~appropriate~~] A law enforcement officer, in making arrests for
7 abuse, shall identify whether one of the parties acted in self-
8 defense and indicate that the party arrested was the
9 predominant aggressor; [~~and~~]

10 (6) [~~advising~~] informing the victim [~~when~~
11 ~~appropriate~~] of the procedure for initiating proceedings under
12 the [~~Family Violence~~] Protection Against Abuse and Violence Act
13 or criminal proceedings and of the importance of preserving
14 evidence, including digital evidence; and

15 (7) identifying and documenting in the
16 criminal complaint and incident report names and relationships
17 between people present at the incident, including any
18 additional victims or witnesses.

19 C. The jail or detention center shall make [~~a~~]
20 reasonable [~~attempt~~] efforts to notify the arresting law
21 enforcement agency or officer and victim when the alleged
22 perpetrator of abuse, stalking or sexual assault or a
23 restrained party in violation of an order of protection escapes
24 from custody, is released from custody or is transferred to
25 another facility. The arresting law enforcement agency shall

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1 make [~~a~~] reasonable [~~attempt~~] efforts to notify the victim that
2 the alleged perpetrator is released from custody.

3 D. Any law enforcement officer responding to a
4 request for assistance under the [~~Family Violence~~] Protection
5 Against Abuse and Violence Act is immune from civil liability
6 to the extent allowed by law. Any jail, detention center or
7 law enforcement agency that makes a reasonable attempt to
8 provide notification that an alleged perpetrator is released
9 from custody is immune from civil liability to the extent
10 allowed by law.

11 E. A statement shall be included in a judgment and
12 sentence document to indicate when a conviction results from
13 the commission of [~~domestic~~] abuse."

14 SECTION 18. Section 40-13-7.1 NMSA 1978 (being Laws 2005,
15 Chapter 281, Section 1) is amended to read:

16 "40-13-7.1. [~~MEDICAL PERSONNEL~~] HEALTH CARE
17 PROFESSIONALS--DOCUMENTATION OF [~~DOMESTIC~~] ABUSE.--

18 A. When [~~medical personnel who are~~] a health care
19 professional who is interviewing, examining, attending or
20 treating a person:

21 (1) [~~receive~~] receives a report from the
22 person of an act of [~~domestic~~] abuse, the [~~medical personnel~~]
23 health care professional shall document the nature of the abuse
24 and the name of the alleged perpetrator of the abuse, if
25 disclosed, in the person's medical file and shall provide the

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1 person with information about and referral to services for
2 victims of [~~domestic~~] abuse; or

3 (2) [~~may have~~] has reason to believe or
4 suspect that the person is a victim of [~~domestic~~] abuse, the
5 [~~medical personnel~~] health care professional shall provide the
6 person with information about and referral to services for
7 victims of [~~domestic~~] abuse.

8 B. Medical and other health-care-related
9 information or communications concerning [~~domestic~~] abuse of a
10 person obtained by or from [~~medical personnel~~] a health care
11 professional during the course of an interview, examination,
12 diagnosis or treatment are confidential communications unless
13 released:

14 (1) with the prior written consent of the
15 person;

16 (2) pursuant to a court order; or

17 (3) when necessary to provide treatment,
18 payment and operations in accordance with the federal Health
19 Insurance Portability and Accountability Act of 1996.

20 C. As used in this section, "[~~medical personnel~~]
21 health care professional" means:

22 (1) a licensed health care [practitioners]
23 practitioner who interviews, examines, attends or treats
24 patients;

25 [~~(2) licensed emergency medical technicians;~~

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1 ~~(3) health care practitioners who interview,~~
2 ~~examine, attend or treat a person and who are under the~~
3 ~~guidance or supervision of licensed health care practitioners;~~
4 ~~and~~

5 ~~(4) residents and interns;]~~

6 (2) a person who works under the guidance and
7 supervision of a licensed health care practitioner;

8 (3) a health care practitioner in training,
9 including a student, a resident and an intern; and

10 (4) a licensed emergency medical technician."

11 SECTION 19. Section 40-13-9 NMSA 1978 (being Laws 2005,
12 Chapter 30, Section 1) is amended to read:

13 "40-13-9. DOMESTIC VIOLENCE SPECIAL COMMISSIONERS--
14 APPOINTMENT--QUALIFICATIONS.--

15 A. A domestic violence special commissioner shall
16 be appointed by and serve at the pleasure of the chief judge of
17 the judicial district to which the officer is assigned.

18 B. A domestic violence special commissioner shall:

19 (1) be an attorney licensed to practice law in
20 New Mexico;

21 (2) have a minimum of three years experience
22 in the practice of law and be knowledgeable in the area of
23 domestic relations and domestic violence matters; and

24 (3) conform to Canons 21-100 through ~~[21-500~~
25 ~~and 21-700]~~ 21-400 of the Code of Judicial Conduct as adopted

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1 by the supreme court. Violation of any such canon shall be
2 grounds for dismissal of any domestic violence special
3 commissioner."

4 SECTION 20. Section 40-13-10 NMSA 1978 (being Laws 2005,
5 Chapter 30, Section 2) is amended to read:

6 "40-13-10. SPECIAL COMMISSIONERS--POWERS--DUTIES.--

7 A. A domestic violence special commissioner shall
8 perform the following duties in carrying out the provisions of
9 the [~~Family Violence~~] Protection Against Abuse and Violence
10 Act:

11 (1) review [~~petitions~~] every petition for
12 [~~orders~~] an order of protection and all motions to enforce,
13 modify or terminate orders of protection or motions to show
14 cause;

15 (2) if deemed necessary, interview
16 petitioners. Any interview shall be on the record;

17 (3) conduct hearings on the merits of
18 petitions for orders of protection and motions to enforce,
19 modify or terminate orders of protection or motions to show
20 cause; and

21 (4) prepare recommendations to the [~~district~~]
22 court regarding petitions for orders of protection and motions
23 to enforce, modify or terminate orders of protection or motions
24 to show cause.

25 B. All orders must be signed by a district court

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1 judge before the recommendations of a domestic violence special
2 commissioner become effective. The recommendation of the
3 hearing officer shall be reviewed and signed on the same day of
4 the hearing."

5 SECTION 21. Section 40-13-12 NMSA 1978 (being Laws 2008,
6 Chapter 40, Section 10) is amended to read:

7 "40-13-12. LIMITS ON INTERNET PUBLICATION.--A state
8 agency, court or political subdivision of the state, including
9 a magistrate or municipal court, judicial district, law
10 enforcement agency, county, municipality or home-rule
11 municipality, shall not make available publicly on the internet
12 any information [~~that would likely reveal the identity or~~
13 ~~location of the party protected under an order of protection]~~
14 regarding the registration of, filing of a petition for or
15 issuance of a protection order, restraining order or injunction
16 pursuant to the Uniform Interstate Enforcement of Domestic
17 Violence Protection Orders Act, whether the filing or issuance
18 occurred in New Mexico or any other state. This provision
19 shall not apply to a filing or issuance on the New Mexico state
20 judiciary's statewide case management and e-filing system, but
21 the address of a protected person shall be redacted from that
22 filing or issuance. A state agency, court or political
23 subdivision may share court-generated and law enforcement-
24 generated information contained in secure, government
25 registries for protection order enforcement purposes."

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1 SECTION 22. Section 40-13B-2 NMSA 1978 (being Laws 2018,
2 Chapter 40, Section 2) is amended to read:

3 "40-13B-2. DEFINITIONS.--As used in the Confidential
4 Substitute Address Act:

5 A. "agency" means an agency of the state or of a
6 political subdivision of the state;

7 B. "applicant" means a person who submits an
8 application to participate in the confidential substitute
9 address program;

10 C. "application assistant" means a person who works
11 or volunteers for a domestic violence or sexual assault program
12 and who assists in preparing an application for the
13 confidential substitute address program;

14 D. "confidential substitute address" means an
15 address designated for a participant by the secretary of state
16 pursuant to the Confidential Substitute Address Act;

17 E. "delivery address" means the address where an
18 applicant or a participant receives mail, and it may be the
19 same as the person's residential address;

20 F. "domestic violence" means "[~~domestic~~] abuse", as
21 defined in the [~~Family Violence~~] Protection Against Abuse and
22 Violence Act;

23 G. "participant" means a person certified to
24 participate in the confidential substitute address program
25 pursuant to the Confidential Substitute Address Act;

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1 H. "public record" means "public records", as
2 defined in the Inspection of Public Records Act; and

3 I. "residential address" means the street address
4 where an applicant or participant resides or will relocate."

5 SECTION 23. Section 50-4A-2 NMSA 1978 (being Laws 2009,
6 Chapter 14, Section 2) is amended to read:

7 "50-4A-2. DEFINITIONS.--As used in the Promoting
8 Financial Independence for Victims of Domestic Abuse Act:

9 A. "domestic abuse" has the same meaning as [~~it~~
10 ~~does~~] "abuse" as defined in the [~~Family Violence~~] Protection
11 Against Abuse and Violence Act;

12 B. "domestic abuse leave" means intermittent paid
13 or unpaid leave time for up to fourteen days in any calendar
14 year, taken by an employee for up to eight hours in one day, to
15 obtain or attempt to obtain an order of protection or other
16 judicial relief from domestic abuse or to meet with law
17 enforcement officials, to consult with attorneys or district
18 attorneys' victim advocates or to attend court proceedings
19 related to the domestic abuse of an employee or an employee's
20 family member;

21 C. "employee" means a person who is employed by an
22 employer;

23 D. "employer" includes a person, a firm, a
24 partnership, an association, a corporation, a receiver or an
25 officer of the court of New Mexico, a state agency, or a unit

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1 of local government or a school district;

2 E. "family member" means a minor child of the
3 employee or a person for whom the employee is a legal guardian;

4 F. "order of protection" means a court order
5 granted pursuant to the [~~Family Violence~~] Protection Against
6 Abuse and Violence Act; and

7 G. "retaliation" means an adverse action against an
8 employee, including threats, reprisals or discrimination for
9 engaging in the protected activity of taking domestic abuse
10 leave."

11 SECTION 24. REPEAL.--Section 40-13-1.1 NMSA 1978 (being
12 Laws 2002, Chapter 34, Section 2 and Laws 2002, Chapter 35,
13 Section 2) is repealed.

14 SECTION 25. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2024.